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The Balance, AND COLUMBIAN REPOSITORY.

" HAIL SACRED POLITY, BY FREEDOM REAR'D !
" HAIL SACRED FREEDOM, WHEN BY LAW RESTRAIN'D !"
BEATTIE.

HUDSON, (NEW-YORK) TUESDAY, MARCH 12, 1805.

Judge Chase.

In the Senate of the United States,
SITTING AS A
High Court of Impeachment,
ON THE
Fourth day of February, A. D. 1805.
THE UNITED STATES vs. SAMUEL CHASE.

The anſwer, and pleas of SAMUEL CHASE, *one of the Aſſociate Juſtices of the Supreme Court of the United States, to the articles of impeachment, exhibited againſt him in the ſaid Court, by the honorable, the Houſe of Repreſentatives of the United States, in ſupport of their impeachment, againſt him, for high crimes and miſdemeanors, ſuppoſed to have been by him committed.*

[CONTINUED.]

IT was for theſe reaſons, that, on the 22d day of April, 1800, when the ſaid John Fries was brought into court, and placed in the priſoner's box for trial, but before the petit jury was impannelled to try him, this reſpondent informed the above mentioned William Lewis, one of his counſel, the aforeſaid Alexander James Dallas not being then in court, " that the court had deliberately conſidered the indictment againſt John Fries for treaſon, and the three ſeveral overt acts of treaſon ſtated therein : that the crime of treaſon was defined by the Conſtitution of the United States : that as the federal legiſlature had the power to make, alter, or repeal laws, ſo the Judiciary only had the power, and it was their duty, to declare, expound, and interpret the conſtitution and laws of the United States : that it was the duty of the court, in all criminal caſes, to ſtate to the petit jury their opinion of the law ariſing on the facts ; but the petit jury, in all criminal caſes, were to decide both the law and the facts, on the conſideration of the whole caſe ; that there muſt be ſome conſtructive expoſition of the terms uſed in the conſtitution, levying war againſt the United States : that the queſtion, what acts amounted to levying war againſt the United States, or the government thereof, was a queſtion of law, and had been decided by the judges Patterſon and Peters, in the caſe of Vigol and Mitchell, and by judge Iredell and Peters, in the caſe of John Fries, priſoner at the bar, in April, 1799 : That judge Peters remained of the ſame opinion, which he had twice before delivered, and he, this reſpondent, on long and great conſideration, concurred in the opinion of judges Patterſon, Iredell and Peters :—That to prevent unneceſſary delay, and to ſave time on the trial of John Fries, and to prevent a delay of juſtice, in the great number of the civil cauſes depending for trial at that term, the court had drawn up in writing their opinion of the law, ariſing on the overt acts, ſtated in the indictment againſt John Fries ; and had directed David Caldwell their clerk, to make out three copies of their opinion, one to the attorney for the diſtrict, one to the counſel for the priſoner, and one to the petit jury, after they ſhould have been impanelled and heard the indictment read to them by the clerk, and after the diſtrict attorney ſhould have ſtated to them the law on the overt acts alledged in the indictment, as it appeared to him.

After theſe obſervations, this reſpondent delivered one of the above mentioned copies to the aforeſaid William Lewis, then attending as one of the priſoner's counſel : who read part of it, and then laid it down on the table before him. Some obſervations were then made on the ſubject, by him and the abovementioned Alexander James Dallas, who had then come into court ; but this reſpondent doth not now recollect thoſe obſervations, and cannot undertake to ſtate them accurately.

And this reſpondent further ſaith, that the paper marked exhibit No. 2, and herewith exhibited, which he prays leave to make part of this his anſwer, is a true copy of the original opinion, drawn up by him and concurred in by the ſaid Richard Peters, as above ſet forth, which original opinion is now in the poſſeſſion of this reſpondent, ready to be produced to this honorable court. He may have erred in forming this opinion, and in the time and manner of making it known to the counſel for the priſoner. If he erred in forming it, he erred in common with his colleagues and with two of his predeceſſors ; and he preſumes to hope that an error which has never been determined criminal in them, will not be imputed as a crime to him, who was led into it by their example and their authority. If he erred in the time and manner of making known this opinion, he feels a juſt confidence that when the reaſons which he has alledged for his conduct, and by which it ſeemed to him to be fully juſtified, ſhall come to be carefully weighed, they will be ſufficient to prove, if not that his conduct was perfectly regular and correct, yet that he might ſincerely have conſidered it as right ; and that in a caſe where ſo much doubt may exiſt, to have committed a miſtake is not to have committed a crime.

And this reſpondent further anſwering inſiſts, that the opinion thus delivered to the priſoner's counſel ; viz. that " any inſurrection or riſing of any body of people within the United States, for the purpoſe of reſiſting or preventing by force or violence, under any pretence whatever, the execution of any ſtatute of the United States, for levying or collecting taxes, or for any other object of a general or national concern, is levying war againſt the United States, within the contemplation and true meaning of the conſtitution of the United States," is a legal and a correct opinion, ſupported not only by the two previous deciſions above mentioned, but alſo by the plaineſt principles of law and reaſon, and by the uniform tenor of legal adjudications in England and Great Britian, from the revolution in 1688 to this time. It ever was, and now is his opinion, that the peace and ſafety of the national federal government, muſt be endangered, by any other conſtruction of the

terms "levying war againſt the United States," uſed by the federal conſtitution; and he is confident that no judge of the federal government, no judge of a ſuperior ſtate court, nor any gentleman of eſtabliſhed reputation for legal knowledge, would or could deliberately give a contrary opinion.

If however this opinion were erroneous, this reſpondent would be far leſs cenſurable than his predeceſſors, by whoſe example he was led aſtray, and by whoſe authority he conſidered himſelf bound. Was it an error to conſider himſelf bound by the authority of their previous deciſions? If it were, he was led into the error by the uniform courſe of judicial proceedings in this country and in England and is ſupported in it, by one of the fundamental principles of our juriſprudence. Can ſuch an error be a crime or miſdemeanor?

If on the other hand, the opinion be in itſelf correct, as he believes and inſiſts that it is, could the expreſſion of a correct opinion on the law, wherever and however made, miſlead the jury, infringe their rights, or give an improper bias to their judgments? Could truth excite improper prejudice? Could the jury be leſs prepared to hear the law diſcuſſed, and to decide on it correctly, becauſe it was correctly ſtated to them by the court? And is not that a new kind of offence, in this country at leaſt, which conſiſts in telling the truth, and giving a correct expoſition of the law.

As to the ſecond ſpecific charge adduced in ſupport of the firſt article of impeachment, which accuſes this reſpondent, "of reſtricting the counſel for the ſaid Fries, from recurring to ſuch Engliſh authorities as they believed appoſite, or from citing certain ſtatutes of the United States, which they deemed illuſtrative of the poſitions upon which they intended to reſt the defence of their client," this reſpondent admits that he did, on the above mentioned trial, expreſs it as his opinion to the aforeſaid counſel for the priſoner, "that the deciſions in England, in caſes of indictments for treaſon at common law, againſt the perſon of the king, ought not to be read to the jury, on trials for treaſon under the conſtitution and ſtatutes of the United States; becauſe ſuch deciſion could not inform, but might miſlead and deceive the jury; that any deciſions on caſes of treaſon, in the courts of England before the revolution of 1688, ought to have very little influence in the courts of the United States; that he would permit deciſions in the courts of England or of Great Britain, ſince the ſaid revolution, to be read to the court or jury, for the purpoſe of ſhewing what acts have been conſidered by thoſe courts, as a conſtructive levying war againſt the king of that country, in his regal capacity, but not againſt his perſon; becauſe levying war againſt *his government* was of the ſame nature as levying war againſt *the government of the United States*; but that ſuch deciſions, nevertheleſs, were not to be conſidered as authorities binding on the courts and juries of this country, but merely in the light of opinions entitled to great reſpect, as having been delivered after full conſideration, by men of great legal learning and ability."

Theſe are the opinions which he did, on that occaſion, deliver to the counſel for the priſoner, and which he then thought, and ſtill thinks, it was his duty to deliver. The counſellors admitted to practiſe in any court of juſtice in his opinion, and according to univerſal practice, to be conſidered as officers of ſuch courts, and miniſters of juſtice therein, and as ſuch, ſubject to the direction and controul of the court, as to their conduct in its preſence, and in conducting the defence of criminals on trial before it.—As counſel, they owe to the perſon accuſed, diligence, fidelity and ſecreſy, and to the court and jury, due and correct information, according to the beſt of their knowledge & ability on every matter of law which they attempt to adduce in argument. The court on the other hand, hath power, and is bound in duty, to decide and direct what evidence, whether by direction or by precedents of deciſions in courts of juſtice, is proper to be admitted for the eſtabliſhment of any matter of law or fact. Conſequently, ſhould counſel attempt to read to a jury, as a law ſtill in force, a ſtatute which had been repealed, or a deciſion which had been reverſed, or the judgments of courts in countries whoſe laws have no connexion with ours, it would be the duty of the court to interpoſe, and prevent ſuch an impoſition from being practiſed on the jury. For theſe reaſons, this reſpondent thinks that his conduct was correct, in expreſſing to the counſel for Fries, the opinions ſtated above. He is not bound to anſwer here for the correctneſs of thoſe principles, though he thinks them inconteſtible, but merely for the correctneſs of his motives in delivering them. A contrary opinion would convert this honorable court, from a court of impeachment to a court of appeals; and would lead directly to the ſtrange abſurdity, that whenever the judgment of an inferior court ſhould be reverſed on appeal of writ or error, the judges of that court muſt be convicted of high crimes and miſdemeanors, and turned out of office: that error in judgment is a puniſhable offence, and that crimes may be committed without any criminal intention. Againſt a doctrine ſo abſurd and miſchievous, ſo contrary to every notion of juſtice hitherto entertained, ſo utterly ſubverſive to all that part of our ſyſtem of juriſprudence, which has been wiſely and humanely eſtabliſhed for the protection of innocence, this reſpondent deems it his duty now, and on every fit occaſion, to enter his proteſt and lift up his voice; and he truſts that in the diſcharge of his duty, infinitely more important to his country than to himſelf, he ſhall find approbation and ſupport in the heart of every American, of every man throughout the world, who knows the bleſſings of civil liberty, or reſpects the principles of univerſal juſtice.

It is only then, for the correctneſs of his motives in delivering theſe opinions, that he can now be called to anſwer; and this correctneſs ought to be preſumed, unleſs the contrary appear by ſome direct proof, or by ſome violent preſumption, ariſing from his general conduct on the trial, or from the glaring impropriety of the opinion itſelf. For he admits that caſes may be ſuppoſed, of an opinion delivered by a judge, ſo palpably erroneous, unjuſt and oppreſſive, as to preclude the poſſibility of its having proceeded from ignorance or miſtake.

Do the opinions now under conſideration bear any of theſe marks? This honorable court need not be informed that there has exiſted in England, no ſuch thing as treaſon at common law, ſince the year 1350, when the ſtatute of the 25th Edward III, chap. 2, declaring what alone ſhould in future be judged treaſon, was paſſed. It is perfectly clear that deciſions made before that ſtatute, 450 years ago, when England, together with the reſt of Europe, was ſtill wrapped in the deepeſt gloom of ignorance and barbariſm; when the ſyſtem of Engliſh juriſprudence was ſtill in its infancy; when law, juſtice and reaſon, were perpetually trampled under foot by feudal oppreſſion and feudal anarchy;—when, under an able and vigorous monarch, every thing was adjudged to be treaſon which he thought fit to call ſo, and under a weak one, nothing was conſidered as treaſon, which turbulent, powerful, and rebellious nobles thought fit to perpetrate: is it perfectly clear that deciſions made at ſuch a time, and under ſuch circumſtances, ought to be received by the courts of this country as authorities to govern their deciſions, or lights to guide the underſtanding of juries? Is it perfectly clear that deciſions made in England, on the ſubject of treaſon, before the revolution of 1688, by which alone the balance of the Engliſh conſtitution was adjuſted, and the Engliſh liberties were fixt on a firm baſis; deciſions made either during the furious civil wars, in which two rival families contended for the crown; when the viciſſitudes of war, death and confiſcation in the forms of law, continually walked in the train of the victors, and actions were treaſonable or praiſe-worthy, according to the preponderance of the party by whoſe adherents they were perpetrated; during the reigns of three able and arbitrary monarchs, who

ſucceeded this dreadful conflict, and relaxed or invigorated the law of treaſon, according to their anger, their policy or their caprice; or during thoſe terrible ſtruggles between the principles of liberty, not yet well defined or underſtood, on one hand, and arbitrary power, inſinuating itſelf under the forms of the conſtitution, on the other; ſtruggles which preſented at ſometimes the wildeſt anarchy, at others, the extremes of ſervile ſubmiſſion, and after having brought one king to the ſcaffold, ended in the expulſion of another from his throne; is it clear that the deciſions on the law of treaſon, made in times like theſe, ought not only to be received as authorities in the courts of this country, but alſo to have great influence on the deciſions? Is it clear that deciſions made in England, as to what acts will amount to levying war againſt the king, perſonally, and not againſt his government, are applicable to the conſtitution and laws of this country? Is it clear that ſuch Engliſh deciſions on the ſubject of treaſon, as are applicable to our conſtitution and laws, are to be received in our courts, not merely as the opinions of learned and able men, which may enlighten their judgment, but as authorities which ought to govern abſolutely their deciſions? Is all this ſo clear, that a Judge could not honeſtly and ſincerely have thought the contrary? That he could not have expreſſed an opinion to the contrary, without corrupt or improper motives? If it be not thus clear, then muſt it be admitted that this reſpondent, ſincerely and honeſtly, and in the beſt of his judgment, conſidered theſe deciſions as wholly inadmiſſible, to admiſſible only for the purpoſes and to the extent which he pointed out.

And if he did ſo conſider them, was it not his duty to prevent them from being read to the jury, except under thoſe reſtrictions, and for thoſe purpoſes? Would his duty permit him to ſit ſilently, and ſee the jury impoſed on and miſled? To ſit ſilently, and hear a book read to them as containing the law, which he knew did not contain the law? Such ſilence would have rendered him a party to the deception, & would have juſtly ſubjected him to all the contumely, which a conſcientious and courageous diſcharge of his duty, has ſo unmeritedly brought on his name.

With reſpect to the ſtatutes of the United States, which he is charged with having prevented the priſoner's counſel from citing on the aforeſaid trial, he denies that he prevented any act of Congreſs from being cited, either to the court or jury, on the ſaid trial, or declared at any time, that he would not permit the priſoner's counſel to read to the jury, or to the court, any act of Congreſs whatever. Nor does he remember or believe, that he expreſſed on the ſaid trial, any diſapprobation of the conduct of the circuit court before whom the ſaid caſe was firſt tried, in permitting the act of Congreſs relating to crimes leſs than treaſon, commonly called the *Sedition Act*, to be read to the jury. He admits indeed that he was then and ſtill is of opinion, that the ſaid act of Congreſs was wholly irrelevant to the iſſue, in the trial of John Fries, and therefore ought not to have been read to the jury, or regarded by them. This opinion may be erroneous, but he truſts, that the following reaſons on which it was founded, will be conſidered, by this honorable court, as ſufficiently ſtrong to render it poſſible, and even probable, that ſuch an opinion might be ſincerely held and honeſtly expreſſed:—1ſt, That Congreſs did not intend by the ſedition law, to define the crime of treaſon by "levying war." Treaſon and ſedition are crimes very diſtinct in their nature, and ſubject to very different puniſhments; the former by death, and the latter by fine and impriſonment.—2ndly, The ſedition law makes a a combination or conſpiracy, with intent to impede the operation of any law of the United States, or the adviſing or attempting to procure an inſurrection or riot, a high miſdemeanor puniſhable by fine or impriſonment; but a combination or conſpiracy with intent to prevent the execution of a law, or with intent to raiſe an inſurrection for that purpoſe, or even with intent to commit treaſon, is not treaſon by "levying war" againſt the United States, unleſs it be followed by an attempt to carry ſuch combination or conſpiracy into effect, by actual force or violence.—3rdly, The conſtitution of the United States is the fundamental and ſupreme law, and having defined the crime of treaſon, Congreſs could not give any legiſlative interpretation or expoſition of that crime, or of the part of the conſtitution by which it is defined.—4thly, The judicial authority of the United States, is alone veſted with power to expound their conſtitution and laws.

And this reſpondent further anſwering ſaith, that after the above-mentioned proceedings had taken place in the ſaid trial, it was poſtponed until the next day, Wedneſday, April 23rd, 1800; when at the meeting of the court, this reſpondent told both the above-mentioned counſel for the priſoner, "that to prevent any miſunderſtanding of any thing that had paſſed the day before, he would inform them, that although the court retained the ſame opinion of the law, ariſing on the overt acts charged in the indictment againſt Fries, yet the counſel would be permitted to offer arguments to the court, for the purpoſe of ſhewing them that they were miſtaken in the law; and that the court if ſatisfied that they had erred in opinion, would correct it: and alſo that the counſel would be permitted to argue before the petit jury, that the court were miſtaken in the law." And this reſpondent added, that the court had given no opinion as to the facts in the caſe, about which both the counſel had declared that there would be no controverſy.

After ſome obſervations by the ſaid William Lewis, and Alexander James Dallas, they both declared to the court, "that they did not any longer conſider themſelves as counſel for John Fries, the priſoner." This reſpondent then aſked the ſaid John Fries, whether he wiſhed the court to appoint other counſel for his defence? He refuſed to have other counſel aſſigned; in which he acted, as this reſpondent believes and charges, by the advice of the ſaid William Lewis, and Alexander James Dallas: whereupon the court ordered the ſaid trial to be had on the next day, Thurſday the 24th of April, 1800.

On that day the trial was proceeded in; and before the jurors were ſworn, they were, by the direction of the court, ſeverally aſked on oath, whether they were in any way related to the priſoner, and whether they had ever formed or delivered any opinion as to his guilt or innocence, or that he ought to be puniſhed? Three of them anſwering in the affirmative, were withdrawn from the pannel. The ſaid John Fries was then informed by the court, that he had a right to challenge thirty-five of the jury, without ſhewing any cauſe of challenge againſt them, and as many more as he could ſhew cauſe of challenge againſt. He did accordingly challenge peremptorily thirty-four of the jury, and the trial proceeded. In the evening, the court adjourned till the next day, Friday, the 25th of April; when after the diſtrict attorney had ſtated the principal facts proved by the witneſſes, and had applied the law to thoſe facts, this reſpondent, with the concurrence of his colleague, the ſaid Richard Peters, delivered to the jury the charge contained and expreſſed in exhibit marked No. 3, and herewith filed, which he prays may be taken as part of this his anſwer.

Immediately after the petit jury had delivered their verdict, this reſpondent informed the ſaid Fries, from the Bench, that if he, or any perſon for him, could ſhew any legal ground, or ſufficient cauſe to arreſt the judgment, ample time would be allowed him for that purpoſe. But no cauſe being ſhewn, ſentence of death was paſſed on the ſaid Fries, on Tueſday the ſecond day of May, 1800, the laſt day of the term; and he was afterwards pardoned by John Adams, then Preſident of the United States.

And this respondent further answering saith, that if the two instances of misconduct, first stated in support of the general charge, contained in the first article of impeachment, were true as alledged, yet the inference drawn from them, viz. "that the said Fries was thereby deprived of the benefit of counsel for his defence," is not true. He insists that the said Fries was deprived of the benefit of counsel, not by any misconduct of this respondent, but by the conduct and advice of the abovementioned William Lewis and Alexander James Dallas, who having been, with their own consent, assigned by the court as counsel for the prisoner, withdrew from his defence, and advised him to refuse other counsel when offered to him by the court, under pretence that the law had been prejudged, and their liberty of conducting the defence, according to their own judgment, improperly restricted by this respondent; but in reality because they knew the law and the facts to be against them, and the case to be desperate, and supposed that their withdrawing themselves under this pretence, might excite odium against the court; might give rise to an opinion that the prisoner had not been fairly tried; and in the event of a conviction, which from their knowledge of the law and the facts they knew to be almost certain, might aid the prisoner in an application to the president for a pardon. That such was the real motive of the said prisoner's counsel, for depriving their client of legal assistance on his trial, this respondent is fully persuaded, and expects to make appear, not only from the circumstances of the case, but from their own frequent and public declarations.

As little can this respondent be justly charged with having by any conduct of his, endeavoured to "wrest from the jury their indisputable right to hear argument, and determine upon the question of law as well as the question of fact involved in the verdict which they were required to give." He denies, that he did at any time declare that the aforesaid counsel should not at any time address the jury, or did in any manner hinder them from addressing the jury on the law as well as on the facts arising in the case. It was expressly stated in the copy of his opinion delivered as above set forth to William Lewis, that the jury had a right to determine the law as well as the fact; and the said W. Lewis and Alex. J Dallas were expressly informed, before they declared their resolution to abandon the defence, that they were at liberty to argue the law to the jury. This respondent believes that the said William Lewis did not read the opinion delivered to him as aforesaid, except a very small part at the beginning of it, and of course acted upon it without knowing its contents: and that the said Alexander James Dallas read no part of the said opinion until about a year ago, when he saw a very imperfect copy made in court by a certain W. S. Biddle.

And this respondent further answering, saith, that according to the constitution of the United States, *civil officers* thereof, and no other persons, are subject to impeachment; and they only for treason, bribery, corruption, or other high crime or misdemeanor, consisting in some act done or omitted, in violation of some law forbidding or commanding it: on conviction of which act, they *must* be removed from office; and may, after conviction, be indicted and punished therefor, according to law. Hence it clearly results, that no civil officer of the United States can be impeached, except for some offence for which he may be indicted at law; and that no evidence can be received on an impeachment, except such as on an indictment at law, for the same offence would be admissible. That a judge cannot be indicted or punished according to law, for any act whatever, done by him in his judicial capacity, and in a matter of which he has jurisdiction, thro' error of judgment merely, without corrupt motives, however manifest his error may be, is a principle resting on the plainest maxims of reason and justice supported by the highest legal authority, and sanctioned by the universal sense of mankind. He hath already endeavoured to shew, and he hopes with success, that all the opinions delivered by him in the course of the trial now under consideration, were correct in themselves, and in the time and manner of expressing them; and that even admitting them to have been incorrect, there was such strong reason in their favor, as to remove from his conduct every suspicion of improper motives. If these opinions were incorrect, his mistake, in adopting them, or in the time and manner of expressing them, cannot be imputed to him as an offence of any kind, much less as a high crime or misdemeanor, for which he ought to be removed from office, unless it can be shewn by clear and legal evidence, that he acted from corrupt motives.—Should it be considered that some impropriety is attached to his conduct, in the time and mode of expressing any of these opinions; still he apprehends that a very wide difference exists between such impropriety, the casual effect of human infirmity, and a high crime and misdemeanor for which he may be impeached, and must on conviction be removed from office.

Finally, this respondent having thus laid before this honorable court a true state of his case, so far as respects the first article of impeachment, declares, upon the strictest review of his conduct during the whole trial of John Fries for treason, that he was not on that occasion unmindful of the solemn duties of his office as judge; that he faithfully and impartially, and according to the best of his ability and understanding, discharged those duties towards the said John Fries; and that he did not in any manner, during the said trial, conduct himself arbitrarily, unjustly or oppressively, as he is accused by the honorable the House of Representatives.

And the said Samuel Chase, for plea to the said first article of impeachment, saith, that he is not guilty of any high crime or misdemeanor, as in and by the said first article is alledged; and this he prays may be enquired of by this honorable court, in such manner as law and justice shall seem to them to require.

The second acticle of impeachment charges, that this respondent, at the trial of James Thompson Callender for a libel, in May 1800, did, "with intent to oppress and procure the conviction of the said Callender, overrule the objection of John Basset, one of the jury, who wished to be excused from serving on the trial, because he had made up his mind as to the publication from which the words, charged to be libellous in the indictment were extracted."

In answer to this article, the respondent admits that he did, as one of the associate justices of the supreme court of the United states, hold the circuit court of the United States, for the district of Virginia, at Richmond, on Thursday the 22d day of May, in the year 1800, and from that day, till the 30th of the same month; When Cyrus Griffin, then district judge of the United States for the district of Virginia, took his seat in the said court; and that during the residue of that session of the said court, which continued till the day of June, in the same year, this respondent and the said Cyrus Griffin, held the said court together. But how far any of the other matters charged in this article, are founded in truth or law, will appear from the following statement; which he submits to this honourable court, by way of answer to this part of the accusation.

By an act of Congress passed on the 4th day of May, A. D. 1798, it is among other things enacted, "That if any person shall write, print, utter or publish, or shall knowingly and wittingly assist and aid in writing, printing, uttering or publishing, any false, scandalous, and malicious writing or writings, against the President of the United States, with intent to defame, or to bring him into contempt or disrepute, such person, being thereof convicted shall be punished by fine, not exceeding two thousand dollars, and by imprisonment, not exceeding two years;" and, "that if any person shall be prosecuted under this act, it shall be lawful for him to give in evidence in his defence, the truth of the matter contained in the publication charged as a libel; and the jury shall have a right to determine the law and the fact, under the direction of the court, as in other cases," as in and by the said act, commonly called the *sedition law*, to which this respondent begs leave to refer this honorable court, will more fully appear,

At the meeting of the last above mentioned circuit court, this respondent, as required by the duties of his office, delivered a charge to the grand jury; in which according to his constant practice, and to his duty as a judge, he gave in charge to them, several acts of Congress for the punishment of offences, and among them, the above mentioned act, called the sedition law; and directed the said jury to make particular enquiry, concerning any breaches of these statutes or any of them, within the district of Virginia. On the 24th day of May, 1800, the said jury found an indictment against one James Thompson Callender, for printing and publishing, against the form of the said act of Congress, a false, scandalous and malicious libel, called "The Prospect before Us," against John Adams, then President of the United States, in his official character as President; as appears by an official copy of the said indictment, marked exhibit No, 4. which this respondent begs leave to make part of this his answer.

On Wednesday, the 28th day of the same month, May, 1800. Phillip Norbonne Nicholas, Esq now attorney general of the state of Virginia, and George Hay, Esq. now district attorney of the U. States, for the district of Virginia, appeared in the said circuit court as counsel for the said Callender; and on Tuesday the third of June following, his trial commenced, before this respondent, and the said Cyrus Griffin, who then sat as assistant judge. The petit jurors being called over, eight of them appeared, namely, Robert Gamble, Bernard Mackham, John Barrell, William Austin, William Richardson, Thomas Tinsley, Matthew Harvey and John Basset; who as they came to the Book to be sworn, were severally asked on oath, by direction of the court, "whether they had ever formed and delivered any opinion respecting the subject matter then to be tried, or concerning the charges contained in the indictment?" They all answered in the negative, and were sworn in chief to try the issue. The counsel for the said Callender declaring, that it was unnecessary to put this question to the other four jurymen, William Mayo, James Hawes, Henry S. Shore and John Prior, they also were immediately sworn in chief. No challenge was made by the said Callender or his counsel, to any of these jurors; but the said counsel declared, that they would rely on the answer that should be given by the said jurors, to the question thus put by order of the court.

After the above-mentioned John Basset, whom this respondent supposes and admits to be the person mentioned in the article of impeachment now under consideration, had thus answered in the negative, to the question put to him by order of the court, as above-mentioned, which this respondent states to be the legal and proper question, to be put to jurors on such occasions, he expressed to the court, his wish to be excused from serving on the said trial, because he had made up his mind, or had formed his opinion, "that the publication, called 'The Prospect before Us,' from which the words charged in the indictment as libellous, were said to be extracted, but which he had never seen, was, according to the representation of it, which he had received, within the sedition law." But the court did not consider this declaration by the said John Basset, as a sufficient reason for withdrawing him from the jury, and accordingly directed him to be sworn in chief.

In this opinion and decision, as in all the others delivered during the trial in question, this respondent concurred with his colleague, the afore-mentioned Cyrus Griffin, in whom none of these opinions have been considered as criminal. He contends that the opinion itself was legal and correct; and he denies that he concurred in it, under the influence of any "spirit of persecution and injustice," or with any "intent to oppress and procure the conviction of the prisoner;" as is most untruly alledged by the second article of impeachment. His reasons were correct and legal. He will submit them with confidence to this honorable court; which, although it cannot condemn him for an incorrect opinion, pro-

ceeding from an honest error in judgment,and ought not to take on itself the power of enquiring into the correctness of his decisions, but merely that of examining the purity of his motives ; will nevertheless weigh his reasons, for the purpose of judging how far they are of sufficient force, to justify a belief that they might have appeared satisfactory to him. If they might have so appeared, if the opinion which he founded on them be not so palpably and glaringly wrong, as to carry with it internal evidence of corrupt motives, he cannot in delivering it have committed an offence.

This honorable court need not be informed, that it is the duty of courts before which criminal trials take place, to prevent jurors from being excused for light and insufficient causes. If this rule were not observed, it would follow, that as serving on such trials as a juror, is apt to be a very disagreeable business, especially to those best qualified for it, there would be great difficulty, and often an impossibility, in finding proper juries. The law has therefore established a fixed and general rule on this subject, calculated not to gratify the wishes or the unreasonable scruples of jurors, but to secure to the party accused, as far as in the imperfection of human nature it can be secured, a fair and impartial trial. The criterion established by this rule is, "that the juror stands indifferent between the government and the person accused, as to the matter *in issue*, on the indictment." This indifference is always, according to a well known maxim of law, to be presumed, unless the contrary appear ; and the contrary may be alledged by way of excuse by the juror himself, or by the prisoner by way of challenge. Even if not alledged, it may be inquired into by the court of its own mere motion, or on the suggestion of the prisoner, and it may be established by confession of the juror himself, on oath, or by other testimony.

But in order to shew that a juror does not "stand indifferent between the accuser and the accused, *as to the matter in issue*," it is not sufficient to prove that he has expressed a general opinion, "that such an offence as that charged by the indictment ought to be punished ;" or "that the party accused, if guilty of the offence charged against him, ought to be punished ;" or "that a book, for printing and publishing which the party is indicted, comes within the law on which the indictment is founded." All these are general expressions of opinion, as to the criminality of an act of which the party is accused, and of which he *may* be guilty ; not declarations of an opinion that he actually is guilty of the offence with which he stands charged. It is impossible for a man in society to avoid having, and extremely difficult for him to avoid expressing an opinion, as to the criminality or innocence of those acts, which for the most part, are the subjects of indictments for offences of a public nature ; such as treason, sedition, and libels against the government. Such acts always engage public attention, and become the subject of public conversation ; and if to have formed or expressed an opinion, as to the general nature of those acts, were a sufficient ground of challenge to a juror, when alledged against him, or of excuse from serving when alledged by himself, it would be in the power of almost every offender,to prevent a jury from being impannelled to try him, and of almost every man, to exempt himself from the unpleasant task of serving on such juries. The magnitude and heinous nature of an offence, would give it a greater tendency to attract public attention, and to draw forth public expressions of indignation ; and would thus increase its chance of impunity.

To the present case this reasoning applies with peculiar force. The "Prospect before Us" is a libel so profligate and atrocious, that it excited disgust and indignation in every breast not wholly depraved. Even those whose interest it was intended to promote, were, as this respondent has understood, and believes, either so much ashamed of it, or so aprehensive of its effects, that great pains were taken by them to withdraw it from public and general circulation. Of such a publication, it must have been extremely difficult to find a man of sufficient character and information, to serve on a jury, who had not formed an opinion, either from his knowledge, or from report. The juror in thepre sent case had expressed no opinion. He had formed no opinion, as to the facts. He had never seen the "Prospect before Us," and therefore could have formed no fixed or certain opinion about its nature or contents. They had been reported to him, and he had formed an opinion that if they were such as reported, the book was within the scope and operation of a law for the punishment of "false, scandalous and malicious libels, against the president in his official capacity, written or published with intent to defame him." And who is there, that having either seen the book or heard of it, had not necessarily formed the same opinion.

But this juror had formed no opinion about the guilt or innocence of the party accused ; which depended on four facts wholly distinct from the opinion he had formed. First, whether the contents of the book were really such as had been represented to him ? Secondly, whether they should, on the trial, be proved to be true ? Thirdly, whether the party accused was really the author or publisher of this book ? And fourthly, whether he wrote or published it "with intent to defame the President, or to bring him into contempt or disrepute, or to excite against him the hatred of the good people of the United States ?" On all these questions, the mind of the juror was perfectly at large, notwithstanding the opinion he had formed. He might, consistently with that opinion, determine them all in the negative ; and it was on them that the issue between the United States and James Thompson Callender depended. Consequently, this juror, notwithstanding the opinion which he had thus formed, did stand indifferent as to the matter in issue, in the legal and proper sense, and in the only sense in which such indifference can ever exist ; and therefore his having formed that opinion, was not such an excuse as could have justified the court in discharging him from the jury.

That this juror did not himself consider this opinion, as an opinion respecting the "matter in issue," appears clearly from this circumstance, that when called upon to answer on oath, "whether he had expressed any opinion as to the matter in issue ? he answered that he had not. Which clearly proves that he did not regard the circumstance of his having formed this opinion, as a legal excuse, which ought to exempt him of right from serving on the jury ; but merely suggested it as a motive of delicacy, which induced him to wish to be excused. To such motives of delicacy, however commendable in the person who feels them, it is impossible for courts of justice to yield, without putting it in the power of every man, under pretence of such scruples, to exempt himself from those duties which all the citizens are bound to perform. Courts of justice must regulate themselves by legal principles, which are fixed and universal ; not by delicate scruples, which admit of endless variety, according to the varying opinions and feelings of men.

Such were the reasons of this respondent, and he presumes of his colleague the said Cyrus Griffin, for refusing to excuse the said John Basset, from serving on the jury abovementioned. These reasons, and the decision founded on them, he insists were legal and valid. But if the reasons should be considered as invalid, and the decision as erroneous, can they be considered as so clearly and flagrantly incorrect, as to justify a conclusion that they were adopted by this respondent, through improper motives ? are not these reasons sufficiently strong, or sufficiently plausible, to justify a candid and liberal mind in believing, that a judge might honestly have regarded them as solid ? Has it not been conceded, by the omission to prosecute judge Griffin for this decision, that his error, if he committed one, was an honest error ? Whence this distinction between this respondent and his colleague ? And why is that opinion imputed to one as a crime which in the other is considered as innocent ?

And the said Samuel Chase, for plea to the said second article of impeachment, saith, that he is not guilty of any high crime or misdemeanor, as in and by said second article is alledged against him ; and this he prays may be enquired of by this honorable court, in such manner as law and justice shall seem to them to require

The third article of impeachment alledges that this respondent "with intent to oppress and procure the conviction of the prisoner, did not permit the evidence of John Taylor, a material witness in behalf of the said Callender, to be given in, on pretence that the said witness could not prove the truth of the whole of one of the charges, contained in the indictment, although the said charge embraced more than one fact."

In answer to this charge, this respondent begs leave to submit the following facts and observations.

The indictment against James Thompson Callender, which has been already mentioned, and of which a copy is exhibited with this answer, consisted of two distinct and separate counts, each of which contained twenty distinct and independent charges or sets of words. Each of those sets of words was charged as a libel against John Adams, as president of the United States—and the twelfth charge embraced the following words, "He (meaning president Adams) was a professed aristocrat ; he proved faithful and serviceable to the British interest." The defence set up was confined to this charge, and was rested upon the truth of the words. To the other nineteen charges, no defence of any kind was attempted or spoken of, except such as might arise from the supposed unconstitutionality of the sedition law ; which, if solid, applied to the twelfth charge as well as to the other nineteen. It was to prove the truth of these words, that John Taylor, the person mentioned in the article of impeachment now under consideration, was offered as a witness. It can hardly be necessary to remind this honorable court, that when an indictment for a libel contains several distinct charges, founded on a distinct sets of words, the party accused, who in such case is called the "traverser," must be convicted, unless he makes a sufficient defence against every charge. His innocence on one, does not prove him innocent on the others. If the sedition law should be considered as unconstitutional, the whole indictment, including this twelfth charge, must fall to the ground, whether the words in question were proved to be true or not. If the law should be considered as constitutional, then the traverser, whether the words in the twelfth charge were proved to be true or not, must be convicted on the other nineteen charges, against which no defence was offered. This conviction on nineteen charges, would put the traverser as completely in the power of the court, by which the amount of the fine and the term of imprisonment were to be fixed, as a conviction upon all the twenty charges. The imprisonment could not exceed two years, nor the fine be more than two thousand dollars. If then this respondent were desirous of procuring the conviction of the traverser, he was sure of his object, without rejecting the testimony of John Taylor. If his temper towards the traverser were so vindictive, as to make him feel anxious to obtain an opportunity and excuse for inflicting on him the whole extent of punishment permitted by the law, still a conviction on nineteen charges afforded this opportunity and excuse, as fully as a conviction on twenty charges. One slander more or less, in such a publication as the "Prospect before Us," could surely be of no moment. To attain this object, therefore, it was not necessary to reject the testimony of John Taylor.

That the court did not feel this vindictive spirit, is clearly evinced by the moderation of the punishment, which actually was inflicted on the traverser, after he was convicted of the whole twenty charges. Instead of two thousand dollars, he was fined only two hundred, and was sentenced to only nine month's imprisonment, instead of two years. And this respondent avers,that he never felt or expressed a wish to go further ; but that in this decision, as well as in every other given in the course of the trial, he fully and freely concurred with his colleague, judge Griffin.

As a further proof that his rejection of this testimony did not proceed from any improper motive,

but from a conviction in his mind that it was legally inadmiſſible, and that it was, therefore his duty to reject it, he begs leave to ſtate, that he interfered, in order to prevail on the diſtrict attorney to withdraw his objection to thoſe queſtions, and conſent to their being put; which that officer refuſed to do on the ground "that he did not feel himſelf at liberty to conſent to ſuch a departure from legal principles."

Hence appears the utter futility of a charge, which attributes to this reſpondent a purpoſe as abſurd as it was wicked; and without the ſlighteſt proof, imputes to the worſt motives in him the ſame action, which in his colleague is conſidered as free from blame. But this reſpondent will not content himſelf with ſhowing, that his conduct in concurring with his colleague in the rejection of John Taylor's teſtimony, could not have proceeded from the motives aſcribed to him; but he will ſhew that this rejection, if not ſtrictly legal and proper, as he believes and inſiſts that it is, reſts on legal reaſons of ſufficient force to ſatisfy every mind, that a judge might have ſincerely conſidered it as correct.

The words ſtated as the ground of the twelfth charge abovementioned, are ſtated in the indictment as one entire and indiviſible paragraph, conſtituting one entire offence. This reſpondent conſidered them at the trial, and ſtill conſiders them, as conſtituting one entire charge, and one entire offence; and that they muſt be taken together in order to explain and ſupport each other. It is clear that no words are indictable as libellous, except ſuch as expreſsly, or by plain implication, charge the perſon againſt whom they are publiſhed, with ſome offence either legal or moral. To be an 'ariſtocrat,' is not itſelf an offence, either legal or moral, even if it were a charge ſuſceptible of proof; neither was it an offence either legal or moral, for Mr. Adams to be 'faithful and ſerviceable to the Britiſh intereſt,' unleſs he thereby betrayed or endangered the intereſts of his own country; which does not neceſſarily follow, and is not directly alledged in the publication. Theſe two phraſes, therefore, taken ſeparately, charge Mr. Adams with no offence of any kind; and, conſequently, could not be indictable as libellous: but taken together, they convey the implication that Mr. Adams, being an 'ariſtocrat,' that is, an enemy to the republican government of his own country, had ſubſerved the Britiſh intereſt, againſt the intereſt of his own country which would, in his ſituation, have been an offence both moral and legal; to charge him with it was, therefore, libellous.

Admitting, therefore, theſe two phraſes to conſtitute one diſtinct charge, and one entire offence, this reſpondent conſiders and ſtates it to be law, that no juſtification which went to part only of the offence, could be received. The plea of juſtification muſt always anſwer the whole charge, or it is bad on the demurrer; for this plain reaſon, that the object of the plea is to ſhew the party's innocence; and he cannot be innocent, if the accuſation againſt him be ſupported in part. Where the matter of defence may be given in evidence, without being formally pleaded, the ſame rules prevail. This defence muſt be of the ſame nature, and equally complete, in one caſe as in the other. The only difference is in the manner of bringing it forward. Evidence, therefore, which goes only to juſtify the charge in part, cannot be received. It is not indeed neceſſary, that the whole of this evidence ſhould be given by one witneſs. The juſtification may conſiſt of ſeveral facts, ſome of which may be proved by one perſon, and ſome by another. But proof in ſuch caſes, muſt be offered as to the whole, or it cannot be received.

In the caſe under conſideration, no proof was offered as to the whole matter contained in the twelfth article. No witneſs except the above-mentioned John Taylor, was produced or mentioned. When a witneſs is offered to a court, and jury, it is the right and duty of the court, to require a ſtatement of the matters intended to be proved by him. This is the invariable practice of all our courts, and was done moſt properly by this reſpondent and his colleague, on the occaſion in queſtion. From the ſtatement given by the traverſer's counſel, of what they expected to prove by the ſaid witneſs, it appeared that his teſtimony could have no poſſible application to any part of the indictment, except the twelfth charge above-mentioned, and but a very weak and imperfect application even to that part. The court, therefore, as it was their right and duty, requeſted that the queſtions intended to be put to the witneſs, ſhould be reduced to writing, and ſubmitted to their inſpection; ſo as to enable them to judge more accurately, how far thoſe queſtions were proper and admiſſible. This being done, the queſtions were of the following tenor and effect:—

1ſt. "Did you ever hear Mr. Adams expreſs any ſentiments favorable to monarchy, or 'ariſtocracy,' and what they were?"

2nd. "Did you ever hear Mr. Adams, while Vice-preſident, expreſs his diſapprobation of the funding ſyſtem?"

3rd. "Do you know whether Mr. Adams did not, in the year 1794, vote againſt the ſequeſtration of Britiſh debts, and alſo againſt the bill for ſuſpending intercourſe with Great Britain?"

The ſecond queſtion it is manifeſt, had nothing to do with the twelfth charge; for Mr. Adams' approbation or diſapprobation of the funding ſyſtem, could not have the moſt remote tendency to prove that he was an ariſtocrat, or had proved faithful and ſerviceable to the Britiſh intereſt. In that part of the publication which furniſhes the matter of the thirteenth charge in the indictment, it is indeed ſtated that Mr. Adams, "when but in a ſecondary ſtation, cenſured the funding ſyſtem," but theſe words are in themſelves wholly immaterial: and no attempt was made, nor any evidence offered or ſpoken of, to prove the truth of the other matter contained in the thirteenth charge. It was from their connexion with that other matter, that theſe words could alone derive any imporance; and conſequently their truth or falſhood was altogether immaterial, while that other matter remained unproved. This queſtion, therefore, which went ſolely to thoſe immaterial words, was clearly inadmiſſible. The third queſtion was, in reality, as far as the ſecond from any connexion with the matin iſſue, although its irrelevancy is not quite ſo apparent. Mr. Adams' having voted againſt the two meaſures alluded to in that queſtion, if he did in fact vote againſt them, could by no means prove that he was "faithful and ſerviceable to the Britiſh intereſt," in any ſenſe, much leſs with thoſe improper and criminal views, with which the publication in queſtion certainly meant to charge him. He might, in the honeſt and prudent performance of his duty towards his government and his country, incidentally promote the intereſt of another country; but it was by no means competent for a jury to infer from thence, that he was "faithful" to that other country, or, in other words, that he held the intereſts of that other country chiefly in view, and was actuated in giving his vote by a deſire to promote them, independently of, or without regard to the intereſts of his own country. Such an inference could not be made from the fact, admitting it to be true. The fact, if true, was *no* evidence to ſupport ſuch an inference, therefore the fact was immaterial; and as it is the province and duty of the court, in ſuch circumſtances, to decide on the materiality of facts offered in evidence, it follows clearly, that it was the right and duty of the court, in this inſtance, to reject the third queſtion; an affirmative anſwer to which, could have proved nothing in ſupport of the defence.

[TO BE CONTINUED.]

NOTE....Although this paper furniſhes the reſult of the *proſecution* and *perſecution* of Judge CHASE, ſtill we conceive it to be our duty to finiſh the publication of his anſwer. It is a document which every reader muſt feel anxious to peruſe.

Edit. Bal.

Be it our weekly task,
To note the passing tidings of the times.

Hudson, *March* 12.

Judge Chase.

"ACQUITTED....*LAUS DEO!*"

"After a trial attended with great expence, conducted with aſperity and impotence, on the part of the proſecution, and with candor and ability on the part of the defence, this diſtinguiſhed Patriot, this able, upright and independent Judge, whoſe talents and integrity do equal honor to his country and to himſelf, has been acquitted of every charge, that political perſecution had raiſed againſt him; and by the judgment of the Senate of the United States, ſitting as a Court of Impeachment, he is reſtored to the ſervice of his country." *P. Reg.*

Judgment in the case of JUDGE CHASE.

Articles.	1	2	3	4	5	6	7	8
Adams, Ms.								
Anderson, T.	g	g	g	g				g
Baldwin, G.	g		g					g
Bayard, D.								
Bradley, Vt.								
Breck'dge, K.	g	g	g	g		g	g	g
Brown, K.	g		g	g				g
Cocke, T.	g	g	g	g		g	g	g
Condit, N. J.	g	g	g	g				g
Dayton, N. J.								
Ellery, R. I.	g	g	g	g				g
Frank'n, N.C.	g		g	g			g	g
Gaillard, S. C.								
Giles, Va.		g	g	g				g
Hillhouse C.								
Howland, R.I.	g	g	g	g		g	g	g
Jackson, G.			g	g			g	g
Logan, P.	g		g	g				g
M'Clay, P.	g	g	g	g		g	g	g
Mitchell, N.Y.								
Moore, Va.	g	g	g	g				g
Olcott, N. H.								
Pickering, Ms.								
Plumer, N H.								
Smith, Mar.			g	g			g	g
Smith, N. Y.								
Smith, Ohio.								
Smith, Ver.								
Stone, N. C.	g			g			g	g
Sumpter, S.C.	g	g	g	g			g	g
Tracy, Conn.								
White, Del.								
Worth'n, O.	g		g	g				g
Wright, Mar.	g		g	g			g	g
Guilty,	16	10	18	18	0	4	10	19
Not Guilty,	18	24	16	16	34	30	24	15

Total GUILTY . . . . . 95.
NOT GUILTY . . . . . 177.

It is with no ordinary ſatisfaction that we announce the acquittal of Judge Chaſe, by the Senate of the United States, only eight members having voted againſt him....an acquittal equally honorable to the Judge and the Senate. Upon this event we felicitate the country, that there is ſtill in our Senate ſufficient virtue to dictate a deciſion in conformity with law and equity, though oppoſed by the loud and malignant clamours of vindictive and unprincipled diſorganizers, both in and out of Congreſs. Let Randolph and his fellow-laborers now anſwer as they can to the people for the enormous expence to which they have ſubjected the nation, for the gratification of their own perſecuting ſpirit againſt an innocent and upright Judge....an expence probably more than ſufficient to ranſom all our brave countrymen who are now ſuffering the moſt abject ſlavery in the hands of Barbarians. [*U. S. Gaz.*]

The Boston Gazette furniſhes the following extract, which we publish for the gratification of Mr. ALLEN, *the defender of Mr.* JEFFERSON'S *fame.*

THE RECOMPENCE OF FOLLY.

From Waſhington, Feb. 12.

"The debate in your Legiſlature has excited much converſation here. The Preſident inquired of Mr. M*****, who the BLOCKHEAD (to uſe his own words) was, that had introduced the ſubject in the Houſe of Repreſentatives; and obſerved, that whether the charges were true or falſe, he ſhould not condeſcend to ſay, but paſſing through a Legiſlative diſcuſſion, they acquired an importance which they never could have attained, had they been confined to the news-papers. Mr. M. obſerved, that had he been at home, the buſineſs would have been prevented, or differently managed; and that the mover of it was a SIMPLE, SILLY FELLOW."

EPITOME.

London papers to the 21ſt of January, received at New-York, furniſh much intereſting intelligence—

In the ſpeech of the King of England, at the opening of the ſeſſion of Parliament, the declaration of war by Spain, againſt England, is announced, and at the ſame time attributed "to the unfortunate prevalence of French counſels." His Majeſty alſo mentions the receipt of "a communication from the French government, containing profeſſions of a pacific diſpoſition." It is difficult to calculate with any certainty, on the reſult of theſe overtures. It is hardly probable that a peace can be procured on terms with which England will comply.

The *maiden* ſpeech of his Imperial Majeſty, Napoleon, delivered from the Throne, at the opening of the legiſlative body, is given under the date of Paris, Dec. 27. In this ſpeech, his majeſty makes as many profeſſions of patriotiſm as if he had been to ſchool to a democratic American preſident. He modeſtly takes the credit of every thing that has reſulted in favor of France, to himſelf, and ſeems to feel a laudable ſolicitude to *live* until his grand object is perfected.

The addreſſes of the Legiſlative Body, and the Tribunate, to his majeſty, are remarkable only for their unequalled ſervility.

On the 11th January, the Britiſh government iſſued orders for granting letters of marque and repriſal againſt Spain.

An immenſe number of rich Spaniſh ſhips have been captured by the Engliſh, ſince the commencement of hoſtilities.

The Knell.

At Wilkesbarre, on the 10th ult. Col. EZEKIEL HYDE, aged 33.

In England, at an advanced age, the Right Hon. JOHN MOORE, Lord Archbiſhop of Canterbury, Primate of all England.

In Frederick county, Virginia, Col. RICHARD K. MEADE, formerly Aid-de-camp to General Waſhington.

In this city, a ſon of Mr. Chriſtian Sears, aged 14 years.

On the 4th inſt. after a long and diſtreſſing illneſs, in the 67th year of his age, JOSEPH HAMILTON, M D. for ſeveral years an eminent Phyſician in this City, and the author of ſeveral Medical Pamphlets. His remains were interred with Maſonic honors.

ORDER OF THE PROCESSION.

Viſiters, two and two.
Members, two and two.
Secretary and Treaſurer.
Junior and Senior Wardens.
Paſt-Masters.
Sacred Writings.
Maſter, ſupported by Junior and Senior Deacons, with ſtaves.

PALL-BEARERS. CORPSE. PALL-BEARERS.

Mourners, in carriages.
Citizens in carriages.
Citizens on horſeback.
Citizens, on foot.

The uſual funeral ceremonies were performed at the grave, by the Maſter.

☞ No Produce at Market.

Wreath.

EXTRACT.

[The following piece of pleasantry, communicated in a letter from the poet, Cowper, to his friend, Joseph Hill, Esq. was designed as a satire upon those "common law judgments, which, while they paid the utmost respect to the letter of a statute, have departed widely from the spirit of it, and, being governed entirely by the point of law, have left equity, reason, and common sense behind them at an infinite distance."]
Edit. Bal.]

NOSE, *Plaintiff*....EYES, *Defendant*.

BETWEEN Nose and Eyes a sad contest arose,
The Spectacles set them unhappily wrong;
The point in dispute was, as all the world knows,
To which the said Spectacles ought to belong.

So the Tongue was the Lawyer, and argued the cause
With a great deal of skill, and a wig full of learning;
While chief Bacon Ear, sat to balance the laws,
So fam'd for his talents at nicely discerning.

In behalf of the Nose, it will quickly appear,
And your Lordship, he said, will undoubtedly find
That the Nose has had Spectacles always in wear,
Which amounts to possession, time out of mind.

Then holding the Spectacles up to the Court,
Your Lordship observes they are made with a straddle,
As wide as the ridge of the Nose is, in short,
Design'd to sit close to it, just like a saddle.

Again, would your Lordship a moment suppose,
('Tis a case that has happen'd, and may be again)
That the visage or countenance had not a Nose,
Pray who would, or who could, wear Spectacles then?

On the whole it appears, and my argument shows,
With a reasoning the Court will never condemn,
That the Spectacles plainly were made for the Nose,
And the Nose was as plainly intended for them.

Then shifting his side as a Lawyer knows how,
He pleaded again in behalf of the Eyes;
But what were his arguments few people know,
For the Court did not think they were equally wise.

So his Lordship decreed, with a grave solemn tone,
Decisive and clear, without one *if* or *but*,
That whenever the Nose put his Spectacles on,
By day-light, or candle-light—Eyes should be shut!

Diversity.

PEDESTRIAN FEAT.

THE very interesting match, which has been published in most of the London papers as depending, was decided on Friday, on Ipswich race ground, in which Lieut. Fairman, of the royal Lanarkshire militia was to travel on foot 60 miles, in 14 successive hours. Lieut. Fairman was dressed in white calico. He started exactly at two o'clock in the morning, a mile previously measured on the course being lighted. The lights were not sufficient to render the first four hours even tolerable travelling. He, however, went 21 miles in that time, during which no bets could be made. About this time a heavy fog came on, which lasted till near noon; he had then been 46 miles, having refreshed twice—still no betting.

His spirits were good all the while, and the interest the numerous spectators took in his behalf, animated him extremely—he continued going at about 4½ miles an hour till three quarters past one, and then he slacked his pace to about 4 miles an hour, and the two or three miles took him each 17 minutes. He finished the distance at 33 minutes past three in the afternoon, being 27 minutes less than the limited time: Forty-five minutes were expended in refreshing himself at a cottage, whither he went five times, which lengthened his walk 259 yards. This match, we are informed, was for 300 guineas each, and bets to the amount of 100 guineas. [*Lond. pap.*]

A striking instance of Longevity,

IN days of yore, a gentleman travelling through the Highlands of Scotland, happened to fall in with a man who appeared to be about eighty years of age, weeping bitterly: On enquiring the reason, the old man informed him that his father had just been whipping him—the gentleman's curiosity led him to visit their cottage, where he saw the father; and on expostulating with him on his cruelty in using thus his son, was told that the *young* rascal had been throwing stones at his grandfather, who was at work in the garden.

THE late Dr. Leland, Fellow of Trinity College, Dublin, chanced one day, at a commencement in that University, to put a few questions to a young man of very moderate capacity. The Doctor asked him his name—"*Scarlet*, Sir," answered the trembling candidate.—"It may be so," said the Doctor, "and yet you are not *deep read*."

WHEN Counsellor Costello was told that Dr. Johnson and Mr. Sheridan, author of the Pronouncing Dictionary, and father of Richard Brinsley Sheridan, were pensioned, he observed, that it was a curious age, when one man received three hundred a-year for *inventing hard words*, and another two hundred a-year for teaching us *how to pronounce them*.

From the Philad. Daily Advertiser.

CORNS.

ALWAYS willing to give any information conducive to the melioration of my fellow sufferers, I humbly tender the following receipt for eradicating the most inveterate corns.

Take a little unwrought cotton, lay it on the part affected—wear it for a week or two, and you will find in an unaccountable manner the corn will be dislodged, and nothing left to *console* the proprietary but the cob.

I had been hugely afflicted for a considerable time, with a concomitant of this kind, and finally was obliged to wear an old shoe, put down at the heel, to my great mortification and peril at this inclement season—was advised to the above stated remedy, and am very happy to find, after wearing the cotton for ten days, the corn was completely gone, and pleased myself with the consolatory idea of to-morrow putting on my "Bennet's royal best," and "Bedford's up to the knees."

JACOBUS.

TERMS OF THE BALANCE, FOR 1805.

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Advertisements inserted in a handsome and conspicuous manner, in the *Advertiser* which accompanies the Balance

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